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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,619	07/28/2003	William Grant Grovenburg	10030630-1	4323
22878	7590	09/03/2008	EXAMINER	
AGILENT TECHNOLOGIES INC.			YUEN, KAN	
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.			ART UNIT	PAPER NUMBER
MS BLDG. E P.O. BOX 7599			2616	
LOVELAND, CO 80537				
NOTIFICATION DATE		DELIVERY MODE		
09/03/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/627,619	<b>Applicant(s)</b> GROVENBURG, WILLIAM GRANT
	<b>Examiner</b> KAN YUEN	<b>Art Unit</b> 2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 May 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,4,6-9,11,12,14,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4,9 and 12 is/are rejected.
- 7) Claim(s) 3,6-8,11,14,17,18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments filed on 5/30/2008 have been fully considered but they are not persuasive.
2. Applicant argued in claim 1 that Baum does not teach sending a telephone number to the edge routers, examiner respectfully disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., sending a telephone number to the edge routers) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In claim 1, applicant is only claiming transmitting information indicating a respective telephone number, and the reference of Baum from the same or similar fields of endeavor teaches transmitting the IP address (indicating information) corresponding to the phone number of the registering device to be monitored. Thus, applicant's argument is moot in view of Baum.
3. Applicant also argued in claim 1, that the combination of Bearden et al. and Baum will not yield more accurate by adding features to monitor a VoIP telephone call based upon a telephone number, examiner respectfully disagrees. By using IP address as the request, The LCIS 534 uses the transmitted IP address to retrieve information corresponding to the phone number to be monitored, e.g., corresponding customer name, physical location, edge router, and port number information, and thus it is making results more accurate.

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4. Applicant's arguments, see remark page 10, filed on 5/30/2008, with respect to claims 3, 7, 11, and 17 have been fully considered and are persuasive. The 103 rejections of claims 3, 7, 11, 17 have been withdrawn.

### ***Claim Objections***

5. Claims 3, 6-8, 11, 14, 17, 18 are objected to because of the following informalities:

In claim 3, lines 6-7, the term "the received information" seems to refer back to the term "the transmitted information". If this is true, applicant is suggested to change the term "the received information" to "the transmitted information". Similar problem exist in claim 7, 11 and 17. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4, 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bearden et al. (Pub No.: 2004/0062204), in view of Baum (Pub No.: 2003/0200311).

For claim 1, Bearden et al. disclosed the method of transmitting information indicating a respective telephone number from a network troubleshooting center (NTC) (fig. 1, Testing Server 104) to a plurality of network analyzers (NAs) (fig. 1, endpoint devices 102) monitoring communication lines through which Voice-over-Internet Protocol (VoIP) data streams are transmitted (Bearden et al. paragraphs 0032-0040, 0051). The devices 102 respond to commands or requests from the testing server 104 to participate in test calls for the purpose of VOIP monitoring and analysis in system 100, wherein the system comprises an internet network 106; and

after receiving the transmitted information, collecting quality of service data by the NAs for data streams associated with a telephone call having the telephone number as a source or destination and transmitted through the communication lines, and providing quality of service information by the NAs to the NTC based on the collected quality of service data (paragraphs 0032). After receiving requests from testing server 104, the endpoints 102 may synthesize a

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call, measure QoS parameters such as jitter, loss and delay associated with the call, and report the results back to the testing server 104.

However, Bearden et al. did not disclose the feature of transmitting information indicating a respective telephone number. Baum from the same or similar fields of endeavor teaches transmitting information indicating a respective telephone number (Baum see paragraph 0126, lines 1-14). In the reference the unit 536 sends a request to edge routers and unit 534 to gather data stream information relative to the telephone number, wherein the request includes IP address (indication information) corresponding to the phone number of the device to be monitored.

Thus, it would have been obvious to use the respective telephone call as the input command as taught by Baum in the network of Bearden et al. Thus, the motivation for using the feature as taught by Baum in the network of Bearden et al. being that it provides accuracy in the monitoring system.

Regarding claims 4, 12 Bearden et al. disclosed the feature wherein the telephone call is based on Session Initialization Protocol (SIP) (Bearden et al. paragraph 0043).

Claim 9 is rejected similar to claim 1.

***Allowable Subject Matter***

9. Claims 3, 6, 11, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 7, 8, 17, 18 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAN YUEN whose telephone number is (571)270-1413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KY

/Steven HD Nguyen/

Primary Examiner, Art Unit 2619